



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 9, 2005

Mr. Steven D. Monté
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
1400 South Lamar Street #300A
Dallas, Texas 75215

OR2005-01204

Dear Mr. Monté:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 218309.

The Dallas Police Department (the "department") received a request for information relating to alarm permit violations by a named business. You claim that some of the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses information made confidential by other statutes. Section 1702.284 of the Occupations Code provides:

¹To the extent any additional responsive information existed on the date the department received this request, we assume you have released it. If you have not released any such records, you must do so at this time. See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Information contained in alarm systems records maintained by a governmental body that concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used is confidential and may be disclosed only to the commission or as otherwise required by state law or court order.

Occ. Code § 1702.284. Section 1702.284 is not applicable to investigative information. *See* Tex. S.B. 277, 68th Leg., R.S. (1983).

In this instance, the submitted information includes both alarm system records and investigative information. The alarm system records reveal the occupant name and location of the alarm system. Accordingly, we conclude that the department must withhold this information, which we have marked, pursuant to section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code. However, the department may not withhold alarm system information from the investigative information.

You ask whether section 552.023 of the Government Code gives the requestor a special right of access to the information made confidential by section 1702.284. Section 552.023 states that a person or a person's authorized representative has a special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect the person's privacy interest. However, the legislative history of section 1702.284 indicates the provision is intended to protect security interests, not solely privacy interests. *See* Tex. S.B. 277, 68th Leg., R.S. (1983). Thus, the requestor does not have a special right of access to this information under section 552.023.

You also note that the submitted information includes Texas-issued motor vehicle record information. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130(a). Therefore, you must withhold the Texas-issued motor vehicle record information that we have marked under section 552.130.

In summary, the department must withhold the information that we have marked that discloses occupant name or alarm location under section 552.101 in conjunction with section 1702.284 of the Occupations Code. The marked Texas-issued motor vehicle

information must be withheld under section 552.130 of the Government Code. The remaining information must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "L. Joseph James".

L. Joseph James
Assistant Attorney General
Open Records Division

LJJ/seg

Ref: ID# 218309

Enc. Submitted documents

c: Ms. Alicia Castillo
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(w/o enclosures)